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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,430	06/24/2003	David J. Nelson	01333	9642

7590

05/16/2006

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EXAMINER

HESS, BRUCE H

ART UNIT	PAPER NUMBER
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1774

DATE MAILED: 05/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/602,430	Applicant(s) NELSON ET AL.	
	Examiner Bruce H. Hess	Art Unit 1774	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3-16-06 (Amendment).
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4, 6-9 and 11-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4, 6-9 and 11-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

Art Unit: 1774

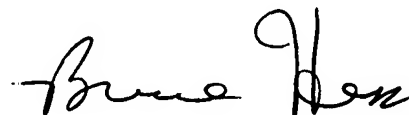
Claims 4, 6-9 and 11-17 are rejected under 35 USC 112 (1) as being broader than the enabling disclosure as a result of applicants' failure to recite that the particulate material is C-545T.

Claims 4, 7-9 and 12-17 are rejected under 35 U.S.C. 102(a) as being anticipated by any of the patents to Hatwar et al. (USP 6,565,996), Irvin et al. (USP 6,695,980) or Aziz et al. (USP 6,740,429).

These patents all teach articles marked with a material comprising nanoparticulate C-545T. Since this is the same material employed by applicants, it is inherent that it functions in the manner claimed by applicants. See Hatwar et al. at column 7, lines 4 and 5 and column 8, lines 47 and 48; Irvin et al. at column 5, lines 21, 22 and 48; and Aziz et al. at column 8, lines 43, 44 and 55-57 and column 9, lines 40-45.

Claims 4, 6-9 and 11-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over any of the patents to Hatwar et al. Irvin et al. or Aziz et al. in view of either of the patents to Kaule et al. (USP 6,344,261) or Duggal et al. (USP 6,700,322).

The primary references apply as per the preceding paragraph. Given the teaching of equivalence of employing luminescent particles either in or on substrates by the secondary references, embedding the luminescent particles of the primary references would have been obvious to one of ordinary skill in this art in the absence of unexpected results.



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PRIMARY EXAMINER
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